

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 11, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROBERT LARAMIE GOMES,

Plaintiff,

v.

MEMORIAL HOSPITAL,

Defendant.

No. 1:19-cv-3094-SMJ

**ORDER DENYING CONSTRUED
MOTION FOR
RECONSIDERATION**

Before the Court, without oral argument, is Plaintiff Robert Laramie Gomes's construed Motion for Reconsideration, ECF No. 30. Plaintiff asks the Court to reconsider its Order Dismissing Action, issued on June 11, 2020, ECF No. 27. Plaintiff subsequently notified the Court of his release from incarceration. ECF No. 31. Having reviewed the filings and the record in this matter, the Court is fully informed and denies the construed Motion for Reconsideration.

MOTION FOR RECONSIDERATION

A motion for reconsideration may be reviewed under either Federal Rule of Civil Procedure 59(e) (motion to alter or amend a judgment) or 60(b) (relief from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). "A district court may properly reconsider its decision if it '(1) is presented with newly

1 discovered evidence, (2) committed clear error or the initial decision was manifestly
2 unjust, or (3) if there is an intervening change in controlling law.” *Smith v. Clark*
3 *Cty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (*quoting Sch. Dist. No. 1J*, 5 F.3d
4 at 1263). “There may also be other, highly unusual, circumstances warranting
5 reconsideration.” *Sch. Dist. No. 1J*, 5 F.3d at 1263.

6 Petitioner states he will amend his Complaint again to specify a dollar amount
7 in the relief section and that he was unable to “just go to the Hospital to retrieve
8 policy or custom of Memorial Hospital” due to his incarceration. ECF No. 30 at 1.
9 These assertions are insufficient to overcome the Court’s prior determination that
10 further amendment would be futile. *See* ECF No. 27 at 4.

11 Petitioner has not presented newly discovered evidence, demonstrated that the
12 Court committed clear error, or shown that the Order dismissing this action because
13 the First Amended Complaint failed to state plausible claims for relief was
14 manifestly unjust. There has also been no intervening change in controlling law and
15 there are no other circumstances warranting reconsideration. *Id.*

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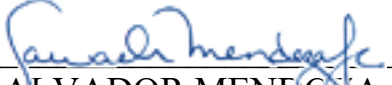
1 Accordingly, **IT IS HEREBY ORDERED:**

2 Plaintiff's construed Motion for Reconsideration, **ECF No. 30**, is

3 **DENIED.**

4 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
5 provide a copy to *pro se* Plaintiff at his last known address. The file shall remain
6 **CLOSED.**

7 **DATED** this 11th day of August 2020.

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10 SALVADOR MENDEZ, JR.
United States District Judge